IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

QoS IP, LLC,	§	
	§	
Plaintiff	§	
v.	§	**CIVIL ACTION NO. 6:17-cv-00212**
	§	
MELLANOX TECHNOLOGIES, LTD. and MELLANOX TECHNOLOGIES, INC.	§	
	§	
	§	
	§	
Defendants.	§	

PLAINTIFF'S ORIGINAL COMPLAINT AND JURY DEMAND

Plaintiff QoS IP, LLC ("QoS") alleges as follows as its Original Complaint for patent infringement against Mellanox Technologies, Ltd. and Mellanox Technologies, Inc. (collectively, "Mellanox"):

THE PARTIES

1. Plaintiff QoS is a Texas limited liability company with its headquarters and principal place of business at 1400 Preston Road, Suite 475, Plano, Texas 75093.

2. Defendant Mellanox Technologies, Ltd. is an Israeli corporation headquartered at Hakidma 26, Ofer Industrial Park, Yokneam, Israel, 2069200 (tel: 972-74-723-7200).

3. Mellanox Technologies, Inc. is a California corporation headquartered at 350 Oakmead Parkway, Suite 350, Sunnyvale, California 94085, with a principal place of business located at 10801 N. MoPac Expressway #300, Austin, Texas 78759 (tel: 866-355-2669).

4. Mellanox may be served through its registered agent for service of process, Corporation Service Company d/b/a CSC Lawyers Incorporating Service, 2710 Gateway Oaks Drive, Suite 150N, Sacramento, California 95833.

5. According to Mellanox, its core business is supplying end-to-end connectivity solutions for servers and storage that optimize data center performance:

> Mellanox intelligent interconnect solutions increase data center efficiency by providing the highest throughput and lowest latency, delivering data faster to applications and unlocking system performance. Mellanox offers a choice of high performance solutions: network and multicore processors, network adapters, switches, cables, software and silicon . . . More information is available at www.mellanox.com.

6. Mellanox markets products that comply with and support the 802.1Qaz technical standard including 802.1Qaz Enhanced Transmission Selection and DCBx, a Data Center Bridging Exchange protocol for identifying DCB-capable devices in the network.

JURISDICTION AND VENUE

7. QoS brings this action for patent infringement under the United States Patent Act, namely 35 U.S.C. §§ 271, 281, and 284-285, among other laws. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338(a), and 1367.

8. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(c) and 1400(b). Mellanox does business in this judicial district, has committed acts of infringement in this judicial district, has purposely transacted business in this judicial district involving the accused products, and/or, has regular and established places of business in this judicial district.

9. Mellanox is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long-Arm Statute, due at least to its substantial business and principal office in this State and judicial district, including at least part of its infringing activities and regularly doing or soliciting business, engaging in other persistent conduct, and/or deriving substantial revenue from goods sold and services provided to Texas residents.

COUNT I
(INFRINGEMENT OF U.S. PATENT NO. 7,385,982)

10. QoS incorporates paragraphs 1 through 9 herein by reference.

11. QoS is the owner, by assignment, of U.S. Patent No. 7,385,982 (the "'982 Patent"), titled "SYSTEMS AND METHODS FOR PROVIDING QUALITY OF SERVICE (QOS) IN AN ENVIRONMENT THAT DOES NOT SUPPORT QOS FEATURES."

12. A true and correct copy of the '982 Patent is attached as Exhibit A.

13. As the owner of the '982 Patent, QoS holds all substantial rights in and under the '982 Patent, including the right to grant sublicenses, exclude others, and to enforce, sue, and recover damages for past and future infringement.

14. The United States Patent Office granted the '982 Patent on June 10, 2008, after a full examination and upon finding the claimed subject matter patentable.

15. The '982 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

16. Mellanox is practicing one or more claims of the '982 Patent, including at

least claims 1 and 13, by making, using, offering for sale, selling and/or importing products that include systems and perform methods of providing quality of service based upon non-QoS information.

17. Mellanox has no consent or authorization to practice the '982 Patent.

18. Infringing products that Mellanox makes, uses, sells, offers to sell, and/or imports include, without limitation, the SX and SN2000 series switches. Examples of infringing models include: SX1012, SX1012X, SX1016, SX1018HP, SX 1024, SX 1024(52), SX1035, SX1036, SX1410, SX1710, SN2100, SN2410, and SN2700.

19. The accused Mellanox switches have multiple input and output ports for data ingress and egress.

20. A combination of source/destination address, source/destination socket numbers, or a session identifier may be used to define and distinguish and apply QoS policies.

21. The accused Mellanox switches examine received packet information including source and/or destination address information in order to apply QoS policies.

22. Accused Mellanox switches classify and queue data for transmission based upon policies applied according to source and/or destination address.

23. Accused Mellanox switches employ Enhanced Transmission Selection (ETS) and Data Center Bridging (DCB) to ensure low latency and zero packet loss.

24. The Enhanced Transmission Selection feature in the accused Mellanox switches provides bandwidth allocation on converged links in end stations and bridges in a Data Center Bridging environment.

25. When traffic at a priority level does not use its full allocation, 802.1Qaz ensures that other priorities are allowed to use that bandwidth dynamically.

26. Mellanox directly infringes at least claims 1 and 13 by using, importing, selling, and offering for sale the accused Mellanox switches.

27. As a result of Mellanox's infringing conduct, QoS has been harmed. Mellanox is thus liable to QoS in an amount that adequately compensates for Mellanox's infringement, which compensation cannot be less than a reasonable royalty together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

NOTICE OF REQUIREMENT OF LITIGATION HOLD

28. Mellanox is hereby notified it is legally obligated to locate, preserve, and maintain all records, notes, drawings, documents, data, communications, materials, electronic recordings, audio/video/photographic recordings, and digital files, including edited and unedited or "raw" source material, and other information and tangible things that Mellanox knows, or reasonably should know, may be relevant to actual or potential claims, counterclaims, defenses, and/or damages by any party or potential party in this lawsuit, whether created or residing in hard copy form or in the form of electronically stored information (hereafter collectively referred to as "Potential Evidence").

29. As used above, the phrase "electronically stored information" includes without limitation: computer files (and file fragments), e-mail (both sent and received, whether internally or externally), information concerning e-mail (including but not limited to logs of e-mail history and usage, header information, and deleted but recoverable emails), text files (including drafts, revisions, and active or deleted word

processing documents), instant messages, audio recordings and files, video footage and files, audio files, photographic footage and files, spreadsheets, databases, calendars, telephone logs, contact manager information, internet usage files, and all other information created, received, or maintained on any and all electronic and/or digital forms, sources and media, including, without limitation, any and all hard disks, removable media, peripheral computer or electronic storage devices, laptop computers, mobile phones, personal data assistant devices, Blackberry devices, iPhones, video cameras and still cameras, and any and all other locations where electronic data is stored. These sources may also include any personal electronic, digital, and storage devices of any and all of Mellanox's agents, resellers, or employees if electronically stored information resides there.

30. Mellanox is hereby further notified and forewarned that any alteration, destruction, negligent loss, or unavailability, by act or omission, of any Potential Evidence may result in damages or a legal presumption by the Court and/or jury that the Potential Evidence is not favorable to Mellanox's claims and/or defenses. To avoid such a result, Mellanox's preservation duties include, but are not limited to, the requirement that Mellanox immediately notify its agents and employees to halt and/or supervise the auto-delete functions of Mellanox's electronic systems and refrain from deleting Potential Evidence, either manually or through a policy of periodic deletion.

JURY DEMAND

31. QoS hereby demands a trial by jury on all claims, issues, and damages so triable.

PRAYER FOR RELIEF

QoS prays for the following relief:

a. That Mellanox be summoned to appear and answer;

b. That the Court enter an order declaring that Mellanox has infringed the '982 Patent;

c. That this is an exceptional case under 35 U.S.C. § 285;

d. That the Court grant QoS judgment against Mellanox for all actual, consequential, special, punitive, exemplary, increased, and/or statutory damages, including treble damages pursuant to 35 U.S.C. 284 including, if necessary, an accounting of all damages; pre and post-judgment interest as allowed by law; and reasonable attorney's fees, costs, and expenses incurred in this action; and

e. That QoS be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: April 11, 2017

Respectfully submitted,

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